THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO :3261 OF 2006

Dated: 13.12.2006

Between:

Karri Appala Naidu and others.

..petitioner

And

The Commissioner of Municipal Corporation, Visakhapatnam and others.

..Respondents

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 3261 of 2006

ORDER:

The petitioners filed this writ petition with the following prayer;

(i) to continue the services of the petitioners in the works and establishments stated in para 2(a) to (f) of the writ petition as revealed by the records of the Labour Department either as employees of the respondents 3 to 5 or of the 1st respondent;

(ii) to pay the full arrears of wages as per the Statute in the presence of the representative of the 1st respondent under due acknowledgments forthwith;

(iii) to obtain necessary Registration on the part of the 1st respondent under Section 7 of the Contract Labours (Regulation and Abolition) Act 1970 for the purpose of engaging Contract Labour in the said establishments;

(iv) to direct the 1st respondent to insist on the contractors whomsoever it may be to obtain necessary Licences U/sec.12 of the Act forthwith;

(v) to direct the 2nd respondent to take suitable steps for the immediate implementation of the Provisions of the above said Act if required by criminal prosecution;

(vi) to direct the respondents to insist that there should be no change of contract workers in the petitioners herein irrespective of the contractors whomsoever it may be.

and to declare

(i) that the acts of the respondents 1 and 3 to 5 in not insisting on the registration and the licences for

engaging contract labour workers, under the contract Labour (Regulation and Abolition) Act 1970 while engaging contract labour for the water works (a) to (f) stated in para 2 of the Writ affidavit;

(ii) that the non-maintenance of any Registers, records and the issue of wage slips or certificates to the workers by both the 1st respondent who is the Principal Employer and the respondents 3 to 5;

(iii) that the non-payment of the wages to the petitioners for the last several months, as per the statutory provisions.

(iv) The efforts and the attempts of the Respondents 3 to 5 to displace these petitioners;

as illegal and arbitrary.

2. Heard the learned counsel for the petitioners and the learned Standing Counsel for the respondent-Corporation.

3. The questions as to whether the petitioners are entitled to continuity of services in the respondent-Corporation, whether they are entitled to payment of arrears of wages, and whether the 1st respondent has to obtain necessary registration under Section 7 of the contract Labours (Regulation and Abolition) Act 1970 for the purpose of engaging contract labour, have to be adjudicated by the Labour Court after adducing evidence.

4. That apart, in "***Steel Authority of India Ltd. v. National Union Water Front Workers***[1]", it was observed by the apex Court that the determination of question as to whether the contract of employment of labour is a genuine one or a mere ruse/camouflage to evade the provisions of beneficial labour legislation, requires inquiry into disputed questions of facts which cannot conveniently be made by High Courts in exercise of jurisdiction under Article 226 of the Constitution, and the

appropriate authority to go into those issues will be Industrial Tribunal/Court whose determination will be amenable to judicial review. Hence, this Court, in exercise of jurisdiction under Article 226 of the Constitution, cannot gone into the disputed questions of fact and grant any relief to the petitioners and the appropriate authority to go into those issues will be the Industrial Tribunal.

4. In the circumstances, the writ petition is dismissed granting liberty to the petitioners to approach the Labour Court for redresal of their grievances. No costs.

N.V.RAMANA,J

Dated: 13.12.2006.

sj/nsr

---

1 2001 (6) ALD 1 (SC)